

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

---

**CATHY L SIMON**  
Claimant

**OPPORTUNITY VILLAGE**  
Employer

**APPEAL 18A-UI-08434-LJ-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 07/01/18**  
**Claimant: Appellant (2)**

---

Iowa Code § 96.5(2)a – Discharge for Misconduct  
Iowa Admin. Code r. 871-24.32(9) – Disciplinary Suspension

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the July 30, 2018, (reference 03) unemployment insurance decision that denied benefits based upon a determination that claimant was suspended for violation of a known company rule. The parties were properly notified of the hearing. A telephonic hearing was held on August 29, 2018. The claimant, Cathy L. Simon, participated along with witness Karen Hahn-Brown. The employer, Opportunity Village, did not register a telephone number at which to be reached and did not participate in the hearing. Claimant's Exhibit A was received and admitted into the record.

**ISSUE:**

Was the claimant discharged for disqualifying job-related misconduct?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time, most recently as a PSP/medication manager, from January 22, 2018, until June 22, 2018, when she was suspended. Claimant missed a training on May 8, 2018. On May 10, claimant was told that she was required to attend a MANDT training on June 22, 2018. At the time, claimant already had approval to take vacation that day to perform in Des Moines. Therefore, claimant did not attend the June 22 training. Claimant offered to take the MANDT training at another location on another date, and the employer would not allow this. Claimant was suspended for missing this training. On July 19, claimant completed the MANDT training and she was allowed to return to work.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes claimant was suspended from employment for no disqualifying reason. Benefits are allowed.

Iowa Code § 96.5(2)a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

Iowa Admin. Code r. 871-24.32(1)a provides:

Discharge for misconduct.

(1) Definition.

a. "Misconduct" is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. On the other hand mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good faith errors in judgment or discretion are not to be deemed misconduct within the meaning of the statute.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. *Huntoon v. Iowa Dep't of Job Serv.*, 275 N.W.2d 445, 448 (Iowa 1979).

Iowa Admin. Code r. 871-24.32(4) provides:

(4) Report required. The claimant's statement and the employer's statement must give detailed facts as to the specific reason for the claimant's discharge. Allegations of misconduct or dishonesty without additional evidence shall not be sufficient to result in disqualification. If the employer is unwilling to furnish available evidence to corroborate the allegation, misconduct cannot be established. In cases where a suspension or disciplinary layoff exists, the claimant is considered as discharged, and the issue of misconduct shall be resolved.

Iowa Admin. Code r. 871-24.32(9) provides:

(9) Suspension or disciplinary layoff. Whenever a claim is filed and the reason for the claimant's unemployment is the result of a disciplinary layoff or suspension imposed by the employer, the claimant is considered as discharged, and the issue of misconduct

must be resolved. Alleged misconduct or dishonesty without corroboration is not sufficient to result in disqualification.

In an at-will employment environment an employer may discharge an employee for any number of reasons or no reason at all if it is not contrary to public policy, but if it fails to meet its burden of proof to establish job related misconduct as the reason for the separation, it incurs potential liability for unemployment insurance benefits related to that separation. Here, the employer did not participate in the appeal hearing or submit any documentation in lieu of in-person participation. Claimant missed the training because she had already been approved to take that day off. The employer has not met its burden of proving the claimant engaged in any disqualifying, job-related misconduct. Benefits are withheld.

**DECISION:**

The July 30, 2018, (reference 03) unemployment insurance decision is reversed. Claimant was suspended from employment for no disqualifying reason. Benefits are allowed, provided she is otherwise eligible. Any benefits claimed and withheld on this basis shall be paid.

---

Elizabeth A. Johnson  
Administrative Law Judge

---

Decision Dated and Mailed

lj/scn